



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

March 3, 2006

John D. Heffner, Esq.
1920 N Street, NW
Suite 800
Washington, DC 20036

Re: STB Finance Docket 34836, Arizona Eastern Railway – Construction and
Operation Exemption – In Graham County, Arizona

Dear Mr. Heffner:

Pursuant to 49 CFR 1105.1(c), we are granting your request of February 3, 2006, for a waiver of the six-month prefiling notice generally required for construction projects under 49 CFR 1105.10(a)(1).

On November 18, 2005, the Surface Transportation Board's (the Board) Section of Environmental Analysis (SEA) met with you in person, as well as Ed Ellis of Arizona Eastern Railway (AZER or applicant) and Scott Steinwert of CirclePoint (Contractor) via conference call. At the meeting, it was explained that AZER would seek authority from the Board to construct and operate an approximately 10-mile rail line in Graham County, Arizona (AZ). The line would connect Phelps Dodge's proposed San Juan mining operation with an existing 133.5-mile AZER line that operates between Miami and Bowie, AZ, then connects with a line of the Union Pacific Railroad (UP). AZER anticipates that the line would handle about 5,000 carloads annually, or one roundtrip train per day at 15 to 20 carloads per trip, six days per week. Commodities to be handled include sulfur and sulfuric acid in tank cars and copper cathodes in boxcars. You stated that this traffic represents new business, which would move directly by rail from Phelps Dodge's mine and processing facility.

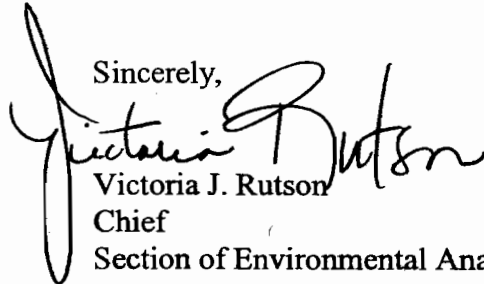
In your waiver request, you explain that the potential environmental effects of the proposed construction and operation are likely to be minimal because the proposed rail line would be located primarily on land owned by Phelps Dodge, only one highway would be crossed, only one waterway would be crossed, and any potentially adverse environmental impacts could be mitigated. Moreover, you stated that the movement by rail instead of truck would be beneficial due to reduced highway congestion, air and noise pollution, and energy consumption.

At the meeting, SEA provided you with a general overview of the Board's environmental review process, SEA's role in conducting the environmental review, and the role of third-party contractors. In addition, SEA discussed with you the importance of adequate public outreach, as

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well as the role of the public, including Federal, state, and local agencies, parties of record, communities and other interested parties in the review process.

Based on the information from this initial meeting, SEA believes that it has adequate information and the applicant is sufficiently aware of the environmental process to grant this request. If we can be of further assistance, please contact Diana Wood of my staff at 202-565-1552.

Sincerely,

Victoria J. Rutson
Chief
Section of Environmental Analysis